

ENTERED

February 07, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

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VS.

CRIMINAL ACTION NO. H-15-402

SIMONE SWENSON

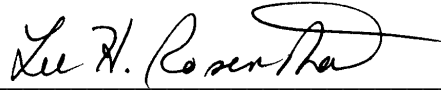
ORDER

The court orders the parties to submit expanded supplemental briefs on Simone Swenson's motion for a judgment of acquittal on Count 3 of the indictment, (Docket Entry No. 168). By **February 14, 2020**, the United States must submit a brief setting out legal authority and record evidence showing that the evidence at trial was sufficient to convict Ms. Swenson on Count 3 "[e]ven if the double match scheme did not exist in June [2013] when [Daniel Cuschieri's \$13,400] check was mailed." (Docket Entry No. 176 at 3). The United States must address the sufficiency of the evidence as to Ms. Swenson's specific intent to defraud under Count 3.

The defense must respond by **February 21, 2020**. It must address whether there is Fifth Circuit case law stating that "[a]ctions of the defendant involving the mails taken prior to the origination of the scheme to defraud . . . cannot be the basis for convictions under the federal mail fraud statute." (Docket Entry No. 168 at 4). Both parties must cite the best Fifth Circuit precedent they can find, or state if they cannot locate Fifth Circuit case law on point.

Ms. Swenson's February 19, 2020, sentencing is reset to **April 14, 2020, at 9:00 a.m.**

SIGNED on February 7, 2020, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal". The signature is fluid and cursive, with a large loop at the end of the last name.

Lee H. Rosenthal
Chief United States District Judge